

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

QUINDON M. YELDER,

Plaintiff,

vs.

LLOYD J. AUSTINIII, Secretary of Defense;

Defendant.

8:21CV320

ORDER

This matter comes before the Court on Plaintiff’s “Request Second Decision on Motion to Appoint Counsel” which the Court construes as a motion to reconsider the magistrate judge’s order. [Filing No. 45](#). On November 3, 2022, Magistrate Judge Bazis denied Plaintiff’s third request for appointment of counsel. [Filing No. 43](#). Magistrate Judge Bazis’s order explained that the appointment of counsel to indigent civil defendants was a matter of discretion and stated the factors a court considers. *Id. at 1*. Magistrate Judge Bazis concluded that there had been no recent developments since her denial of Plaintiff’s previous requests for appointment of counsel which would warrant the appointment of counsel. *Id.*

A Magistrate Judge may hear and determine certain pretrial matters such as Plaintiff’s motion to appoint counsel. [28 U.S.C. § 636\(b\)\(1\)\(A\)](#). “A judge of the court may reconsider any pretrial matter . . . where it has been shown that the magistrate judge’s order is clearly erroneous or contrary to law.” [28 U.S.C. § 636\(b\)\(1\)\(A\)](#). Having reviewed the Magistrate Judge’s order and the prior motions and orders relating to Plaintiff’s requests for counsel, the Court finds the magistrate judge’s order denying the appointment of counsel is not clearly erroneous or contrary to law.

Plaintiff also requests “a ruling on the Court’s jurisdiction on my amended claim of relief, [Filing No. 1.](#)” [Filing No. 45.](#) It is unclear what Plaintiff is requesting. Plaintiff’s operative Amended Complaint is to be found at [Filing No. 31](#). As explained by Magistrate Judge Bazis, case progression will proceed following resolution of the present request for appointment of counsel. Accordingly, the parties are ordered to contact Magistrate Judge Bazis’s chambers for further case progression and the case will be litigated in the usual manner.

IT IS ORDERED:

1. Plaintiff’s Request Second Decision on Motion to Appoint Counsel, [Filing No. 45](#), is denied.
2. As set forth at [Filing No. 47](#), the parties are ordered to contact Magistrate Judge Bazis’s chambers to reschedule the previously canceled telephone conference to discuss case progression within seven (7) days of the date of this order.

Dated this 20th day of January, 2023.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge